

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

BRIAN KOPATZ §
VS. § CIVIL ACTION NO. 1:17-CV-171
ASSISTANT WARDEN, VIRGIL §
MCMULLEN, *et al.*, §

MEMORANDUM ORDER OVERRULING OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff, Brian Kopatz, an inmate formerly confined at the Mark Stiles Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against several defendants.

The court referred this matter to the Honorable Zack Hawthorn United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends plaintiff's Motion for Preliminary Injunction/Motion for Evidentiary Hearing (docket entry nos. 11 & 12) be denied. Plaintiff filed a Motion for Extension of Time to File Objections on January 17, 2018 (docket entry no. 29) and then his Objections on January 29, 2018 (docket entry no. 30).¹ Having received plaintiff's objections to the Report and Recommendation, this requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See FED. R. CIV. P. 72(b).*

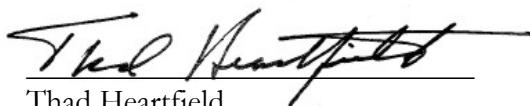
After careful consideration, the court finds plaintiff's objections lacking in merit. Plaintiff is no longer incarcerated at the Mark Stiles Unit. Any request for injunctive relief as to defendants at the Mark Stiles Unit is now moot. *See Tuft v. Texas*, 410 F. App'x 770 (5th Cir. 2011) (citing *Herman v. Holiday*, 238 F.3d 660, 665 (5th Cir. 2001)). Similarly, plaintiff's request for an evidentiary is unwarranted and denied.

¹The Clerk of Court docketed plaintiff's objections as a Motion for Preliminary Injunction. However, the motion states that it is in response to the Magistrate Judge's Recommendation filed on January 3, 2018 as docket entry no. 27. The motion should be entitled Objections to the Report and Recommendation.

ORDER

Accordingly, Plaintiff's Motion for Extension of Time (docket entry no. 29) is **DENIED** as **MOOT**. The Clerk of Court is instructed to modify the entry for docket entry no. 30 as Plaintiff's Objections to the Report and Recommendation of Magistrate Judge. It is further **ORDERED** that plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**.

SIGNED this the **13** day of **March, 2018**.



Thad Heartfield
United States District Judge